

REMARKS

The Applicants have carefully considered the official action dated March 4, 2009, and the references applied therein. In the official action, claims 18-24, 32-34, 41-47, 56, 62, 64, and 67 were rejected under 35 USC 103(a) as unpatentable over Gerace (WO 97/41673) in view of Official Notice. Additionally, claims 18-34 and 41-67 were rejected under 35 USC 103(a) as unpatentable over Hite et al. (US 5,774,170) in view of Official Notice. In view of the following remarks, the Applicants respectfully traverse the rejections and submit that all pending claims are in condition for allowance. The Applicants respectfully request favorable reconsideration of this application.

I. Examiner's General Comments

It appears that there is no asserted rejection or objection in the General Comments section of the final action. If a rejection or objection is in order, the Applicants respectfully request that such rejection or objection be made in any subsequent action so that the Applicants have a fair opportunity to respond. At this point, the Applicants refrain from any further remarks related to the General Comments section. If the Examiner believes that a telephone call would help resolve any matters related to the General Comments section, the Examiner is invited to contact the undersigned representative.

II. The Rejections under 35 U.S.C. § 103**A. Independent Claim 18**

The Applicants respectfully submit that independent claim 18 is allowable over the applied art. Independent claim 18 is directed to a system to display digital advertisement information that includes, *inter alia*, a receiver for use at a subscriber site, a plurality of image objects corresponding to an advertisement object, each of the image objects requiring a different processing capability to be rendered by the receiver. In addition, claim 18 recites that a link is used to select one of the plurality of image objects and discard the remaining

plurality of image objects based on a processing capability of the receiver. Further, the plurality of image objects are transmitted to the receiver and the one of the plurality of image objects is selected from the transmitted plurality of image objects. None of the references teaches or suggests the claimed system.

Neither Gerace nor Hite et al. teaches or suggests the system of claim 18. For instance, neither Gerace nor Hite et al. teach or suggest a plurality of image objects transmitted to a receiver and that one of the plurality of image objects is selected while the remaining are discarded based on a processing capability of the receiver (at a subscriber site). *See Final Office Action dated March 4, 2009*, pp. 15 and 27. However, the Examiner relies on Official Notice to state that it is common practice in the art to transmit or broadcast at least one file in different formats to one or more receivers configured to select for playing or displaying one or more of the transmitted files. *Id.*

The Applicants respectfully traverse the Examiner's assertion of Official Notice and submit that at the time of the invention, it was not well known to transmit a plurality of image objects to a receiver and select one of the plurality of image objects from the transmitted plurality of image objects while discarding the remaining image objects based on a processing capability of the receiver as recited in claim 18.

The Applicants further submit that transmitting objects as recited in claim 18 would have been contrary to the practice of preserving limited bandwidth. That is, transmitting a plurality of image objects when some will knowingly be discarded would have been regarded as a wasteful use of limited data communication bandwidth at the time of the invention. This is supported by the fact that none of the art of record antedating the filing date of this application teaches or suggests a plurality of image objects transmitted to a receiver and that one of the plurality of image objects is selected from the transmitted plurality of image objects while the remaining are discarded based on a processing capability of the receiver.

In addition, the teachings of the applied art are contrary to the Examiner's Official Notice. For instance, Gerace describes a server (27) that selects appropriate advertisement objects for transmission so that a user's computer need not perform such selection. *Gerace*, 28:25-29 ("... main routine 39 selects and includes advertisement on the newly assembled page/screen view at server 27... if the advertisements there are appropriate for the user..."); 27:1 and 2 ("Main routine 39 transmits the screen view for display to the user."); 11:10-17 ("... User Computer Object 37b provides an indication of the limitations and capabilities of the user's computer system. For example, User Computer Object 37b lists whether the user's system provides audio and/or video display, and what Web browser software is utilized by the user's system."). Thus, all of the advertisement objects transmitted by the server (27) to the user's computer are displayed unconditionally by the user's computer. *Id.*, 13:23-25 ("...the set of Page Display Objects 35a-35c defines the screen views transmitted and displayed to end users."). Thus, Gerace describes the opposite of transmitting a plurality of image objects to a receiver, selecting one of the plurality of image objects and discarding the remaining plurality of image objects.

Hite et al. describe that commercials are received and processed at an ad administration facility (100) for playback and transmission to end viewers via an ad transmission facility (200). *Hite et al.*, 9:2-28. The processed commercials are received at a receiver (410) at a display site, and the receiver (410) merely demodulates, decodes, and displays the commercials. *Id.*, 13:58-14:58. But, Hite et al. do not teach or suggest that the receiver (401) requires any particular processing capabilities that would render it capable of only processing and displaying some of the transmitted commercials. Thus, Hite et al. do not teach or suggest selecting and discarding image objects based on processing capabilities in accordance with claim 18.

In light of the evidence of record against the Examiner's assertion of Official Notice, if the Examiner maintains the rejections on the ground of official notice, the Applicants respectfully request that the Examiner produce documentary evidence or other adequate authority to support the Official Notice. *MPEP* § 2144.03(C).

In view of the foregoing, the Applicants respectfully submit that independent claim 18 and all claims dependent thereon are in condition for allowance.

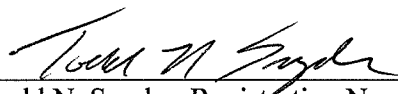
B. Independent Claims 24, 41, 48, and 56

The Applicants respectfully submit that independent claims 24, 41, 48, and 56 are also allowable over the applied art for at least the reasons discussed above in connection with claim 18. Accordingly, the Applicants respectfully submit that independent claims 24, 41, 48, and 56 and all claims dependent thereon are in condition for allowance.

III. Conclusion

In view of the foregoing, the Applicants respectfully submit that this application is in condition for allowance. If there are any remaining matters that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below. The Director is authorized to charge Applicant's Deposit Account 50-0383, for any fees which may be due with this response.

Respectfully submitted,


Todd N. Snyder, Registration No. 41,320
Attorney for Applicant

Dated: April 30, 2009
The DIRECTV Group, Inc.
CA / LA1 / A109
2230 E. Imperial Highway
El Segundo, CA 90245

Telephone: 310-964-4615